

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

LAWRENCE "LARRY" LEE RAMIREZ

PLAINTIFF

v.

Civil No.: 08-cv-5038

SHERIFF KEITH FERGUSON ET AL.

DEFENDANTS

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, an inmate in the Arkansas Department of Correction, brings this pro se civil rights action pursuant to 42 U.S.C. § 1983. (Doc. 1) On August 23, 2010, Plaintiff filed a Motion to Dismiss (Doc. 40) his case, stating he was "reluctant" to seek the dismissal, but felt such a dismissal was necessary due to his "ignorance of the law," which made him feel "intimidated" by opposing counsel, and his inability to obtain certain medical documents to support his case. (Doc. 40).

The undersigned responded to Plaintiff's Motion by issuing an Order (Doc. 41) advising Plaintiff he may file a Motion to Appoint Counsel, and a Motion to Issue Subpoenas, in order to resolve the issues set forth in his motion to Dismiss. Plaintiff was advised that if he did not intend to dismiss his case, but did intend to file these motions, such motions should be filed on or before September 14, 2010.

Plaintiff did file a Motion to Appoint Counsel (Doc. 43), a Motion to Amend (Doc. 42) and a Motion to Issue Subpoena (Doc. 44). Additionally, Plaintiff filed a prehearing information sheet, listing the witnesses he intended to call at the evidentiary

hearing. (Doc. 45). The undersigned construes the filing of these documents as evidencing Plaintiff's intent to proceed with this action. Accordingly, the undersigned recommends that the Motion to Dismiss (Doc. 40) be **DENIED as moot**.

The parties have fourteen (14) days from receipt of this report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 20th day of September 2010.

/s/ Erin L. Setser

HON. ERIN L. SETSER
UNITED STATES MAGISTRATE JUDGE